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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In the Matter of: SOTO, Carlos M. Petitioner, V. HERIBERTO TELLEZ, Metropolitan Detention Center, Brooklyn; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States, in their official capacities, Respondents.	Case No.: 1:26-cv-01093  PETITION FOR WRIT OF HABEAS CORPUS ORAL ARGUMENT REQUESTED

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I. INTRODUCTION

1. Petitioner Carlos M. Soto, [redacted] is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Metropolitan Detention Center in Brooklyn, New York. He has remained in continuous immigration detention since August 14, 2025.

2. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) while his appeal remains pending before the Board of Immigration Appeals. Because the removal order is not administratively final, the duration of his detention is uncertain and dependent upon the pace of administrative proceedings.

3. Petitioner previously received a bond hearing on November 05, 2025. At that hearing, the Immigration Judge placed the burden on Petitioner to demonstrate that he was not a danger to the community and denied bond primarily due to allegations made in the charging documents in a New York City criminal case that was ultimately dismissed. That bond determination did not require the Government to justify continued detention by clear and convincing evidence, and it remains the basis for Petitioner's ongoing confinement.

4. Petitioner brings this habeas action pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his continued civil detention under the Fifth Amendment's Due Process Clause. Absent intervention by this Court, Petitioner will remain subject to prolonged detention without constitutionally sufficient procedural safeguards.

5. Petitioner respectfully requests that this Court declare his continued detention unlawful and order his immediate release, or, in the alternative, direct Respondents to provide a constitutionally compliant bond hearing consistent with this Court's order.

II. JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331 because Petitioner is in custody in violation of the Constitution or laws of the United States. Habeas corpus jurisdiction is also preserved by Article I, § 9, cl. 2 of the United States Constitution.

8. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

9. Petitioner is detained within this District at the Metropolitan Detention Center in Brooklyn, New York. Accordingly, this Court has jurisdiction over Petitioner's immediate custodian.

III. VENUE

10. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States sued in their official capacities.

11. Venue is also proper in this District because Petitioner is detained at the Metropolitan Detention Center in Brooklyn, New York, within the Eastern District of New York, and this Court has jurisdiction over Petitioner's immediate custodian.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

12. Under 28 U.S.C. § 2243, this Court is required to either grant the writ or issue an Order to Show Cause unless it appears from the petition that Petitioner is not entitled to relief.

13. The habeas statute reflects the fundamental role of habeas corpus as a swift and imperative remedy against unlawful detention. Fay v. Noia, 372 U.S. 391, 400 (1963).

V. PARTIES

14. Petitioner is a noncitizen currently detained at Metropolitan Detention Center in Brooklyn, New York. He is in the custody and control of Respondents and their agents.

15. Respondent Warden is the immediate physical custodian of Petitioner.

16. Respondent Acting Director of the ICE Field Office is a legal custodian with authority over Petitioner's detention.

17. Respondent Secretary of DHS is responsible for the implementation and enforcement of the Immigration and Nationality Act.

18. Respondent Attorney General is responsible for oversight of immigration adjudication through EOIR.

VI. STATEMENT OF FACTS

19. Petitioner has been continuously detained by U.S. Immigration and Customs Enforcement ("ICE") since August 14, 2025, at the Metropolitan Detention Center in Brooklyn, New York. (Ex. A.)

20. Petitioner is detained pursuant to 8 U.S.C. § 1226(a) while his timely appeal remains pending before the Board of Immigration Appeals. Because the removal order is not administratively final, Petitioner remains in pre-final-order civil immigration detention. (Ex. E; Ex. F.)

21. Petitioner received a bond hearing on November 5, 2025, pursuant to 8 U.S.C. § 1226(a). At that hearing, the Immigration Judge placed the burden on Petitioner to demonstrate that he was not a danger to the community nor a flight risk. (Ex. B.)

22. In denying bond, the Immigration Judge relied primarily on Petitioner's June 13, 2026, arrest in Brooklyn, NY, for possession of a gambling device and possession of a controlled substance in violation of New York Penal Codes §§ 225.05, 225.30, and 220.03, despite the fact that all such charges were dismissed prior to trial. (Ex. C.) The allegations arose from a police raid of the grocery store where Petitioner had been employed for several years as a clerk and sandwich maker. Petitioner has one conviction for a violation of New York Penal Law Section 240.20 for disorderly conduct on February 11, 2020. (Ex. D.) That arrest and plea to disorderly conduct arose from similar employment-related circumstances at another grocery store. Bond was denied on the grounds that beneficiary was a danger to the community, and Petitioner has remained detained since that time. (Ex. B.) Petitioner denied ever possession or use of any controlled substance.

23. While in ICE detention, the I-130 Immigrant Visa Petition filed on Petitioner's behalf by his U.S. citizen spouse was approved by United States Citizenship Service. (Ex. G.) Accordingly, Petitioner sought adjustment of status as relief from removal before the immigration court. Petitioner is in all manner statutorily eligible for adjustment of status and presented evidence of his longstanding residence in the U.S. since 2015, two (2) U.S. citizen children with his spouse, strong family ties, and lack of disqualifying convictions. (Ex. H; Ex. I.) Respondent is in all manner admissible under the law and required nothing more than a favorable exercise of discretion by the court.

24. On November 17, 2025, Petitioner was informed by the immigration judge that he needed to present a completed medical form I-693 at his individual hearing. However, the judge specifically noted that due his detention at the MDC, in the event a completed medical could not be secured, the immigration judge would withhold rendering a decision and grant a continuance for its completion and submission thereafter. Accordingly, the matter was sent for an individual hearing on December 18, 2025.

25. Petitioner obtained a medical examination from a designated civil surgeon, and a sealed envelope was provided to his spouse for submission to the Immigration Court. The sealed envelope was sent by undersigned counsel to the immigration court, and it was timely received. At the hearing, the sealed envelope was presented as requested. When the envelope was opened, however, it did not contain the completed Form I-693 medical examination. Unbeknownst to Petitioner or his counsel, the Civil Surgeon had omitted it.

26. When it was discovered that the medical examination was not enclosed in the sealed envelope, instant counsel requested that the hearing continue, testimony be taken and requested a continuance to secure the missing medical form I-693. However, for some unknown reason the Immigration Judge simply stated, "I am denying all relief", declined to grant a continuance and denied the application on that basis alone. The denial did not rest on any substantive finding of statutory ineligibility or discretionary unworthiness, simply the missing I-693 which the Civil Surgeon inexplicably failed to include in the sealed envelope. (Ex. E.)

27. This all took place despite at the prior hearing the Immigration Judge stating on the record that obtaining a medical examination for a detained respondent—particularly one housed at the Metropolitan Detention Center—can present logistical difficulties and indicated a willingness to grant a continuance if the only deficiency concerned the medical examination. Petitioner timely filed a motion to reopen which included the completed I-693 with the immigration court on January 06, 2026. However, the immigration judge failed to timely act on the motion. Accordingly, Petitioner timely filed an appeal to the Board of Immigration Appeals on January 20, 2026. That appeal remains pending at the Board of Immigration Appeals. (Ex. F.)

28. Petitioner's appeal challenges that denial and remains pending before the Board of Immigration Appeals. (Ex. F.) Because the removal order is not final, the duration of Petitioner's detention remains uncertain, and removal is not presently imminent.

29. Petitioner has now been detained for more than six months without a final order of removal while his appeal remains pending.

VII. LEGAL FRAMEWORK

30. Petitioner is detained pursuant to 8 U.S.C. § 1226(a), which authorizes discretionary civil detention during the pendency of removal proceedings. Such detention is regulatory in nature and must bear a reasonable relationship to the Government's legitimate interests in ensuring appearance at proceedings and protecting the community. *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

31. Although Congress has authorized detention under § 1226(a), that authority is constrained by the Fifth Amendment's Due Process Clause. Civil detention may not become excessive in relation to its regulatory purpose. See *Demore*, 538 U.S. at 527–28. Although the Supreme Court rejected a statutory requirement of periodic bond hearings under § 1226(a), it made clear that constitutional challenges to prolonged detention remain available. *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018).

32. The Second Circuit has recognized that when detention under § 1226(a) becomes prolonged, due process requires a meaningful and constitutionally adequate bond determination. In such circumstances, the Government must bear the burden of justifying continued detention by clear and convincing evidence. *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020).

33. A bond determination that improperly shifts the burden of proof to the detainee or relies primarily on dismissed criminal allegations does not provide the constitutionally sufficient safeguard required to justify continued civil detention. Continued confinement based on such a deficient proceeding violates the Due Process Clause of the Fifth Amendment.

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process - Prolonged Detention Under § 1226(a)

34. The allegations set forth above are incorporated herein.

35. Petitioner has been detained pursuant to 8 U.S.C. § 1226(a) since August 2025 while his appeal remains pending before the Board of Immigration Appeals. Because the removal order is not administratively final, the duration of his detention is uncertain and contingent upon the pace of administrative review.

36. Although § 1226(a) authorizes discretionary detention during removal proceedings, such confinement must remain reasonably related to the Government's legitimate regulatory interests and may not become excessive in relation to those purposes. As detention extends beyond a brief period and becomes prolonged, Petitioner's liberty interest grows increasingly substantial, and due process requires a constitutionally adequate determination that continued confinement is necessary.

37. Petitioner previously received a bond hearing at which the burden was placed on him to demonstrate that he was not a danger to the community nor a flight risk. However, now that his detention has become prolonged, continued confinement cannot constitutionally rest on a determination that did not require the Government to justify detention by clear and convincing evidence. See *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020).

38. Moreover, Petitioner's removal is not imminent. His appeal challenges a procedural denial unrelated to statutory eligibility or discretionary unworthiness, and appellate

review remains pending. As a result, his detention continues for an indeterminate period.

39. Petitioner has now been detained for more than six months without a final order of removal while his appeal remains pending. There is no defined endpoint to his confinement during the pendency of administrative review. In the absence of constitutionally adequate procedural safeguards, his continued civil detention has become prolonged and excessive in relation to its regulatory purpose.

40. Accordingly, Petitioner's continued confinement under 8 U.S.C. § 1226(a) violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of the Fifth Amendment – Constitutionally Deficient Bond Hearing

41. The allegations set forth above are incorporated herein.

42. Petitioner's continued detention under 8 U.S.C. § 1226(a) rests on a bond determination that does not satisfy the requirements of the Due Process Clause now that his confinement has become prolonged.

43. At his bond hearing on November 5, 2025, the Immigration Judge placed the burden on Petitioner to demonstrate that he was not a danger to the community. Under controlling Second Circuit precedent, when detention under § 1226(a) becomes prolonged, due process requires that the Government bear the burden of proving by clear and convincing evidence that continued detention is justified. See *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020).

44. Although the bond hearing occurred earlier in Petitioner's detention, continued confinement cannot constitutionally rest on a determination that failed to require the Government to justify detention by clear and convincing evidence once detention has become prolonged.

45. The Government has never been required to meet that burden in Petitioner's case. Although Petitioner previously pleaded to a disorderly conduct violation arising from similar employment-related circumstances, the Immigration Judge relied primarily on more recent criminal charges for possession of a gambling device and possession of a controlled substance that were dismissed. The dismissed charges relied upon at the bond hearing did not involve allegations of violence, and the record, viewed as a whole, does not contain clear and convincing evidence that Petitioner presently poses a danger to the community or a risk of flight sufficient to justify continued civil detention.

46. A bond proceeding that places the burden of proof on the detainee and relies primarily on dismissed allegations cannot provide the constitutionally adequate safeguard necessary to justify continued detention once that detention has become prolonged.

47. Because Petitioner's confinement continues to rest on such a deficient determination, his continued detention violates the Due Process Clause of the Fifth Amendment and is unlawful under 28 U.S.C. § 2241.

IX. PRAYER FOR RELIEF

48. Wherefore, Petitioner respectfully requests this Court:

a. Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241;

b. Issue an Order to Show Cause directing Respondents to justify Petitioner's continued detention;

c. Declare that Petitioner's continued detention under 8 U.S.C. § 1226(a) violates the Due Process Clause of the Fifth Amendment;

d. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody; or, in the alternative,

e. Order Respondents to provide Petitioner with a prompt bond hearing before a neutral adjudicator at which:

- The Government bears the burden of proof;
- The Government must establish by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community; and
- The determination is based on reliable evidence and individualized findings;

f. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

By his Attorney

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Counsel for petitioner
Dated: February 26, 2026

X. VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Carlos M. Bautista Soto, and verify that the factual statements in this Petition are true and correct to the best of my knowledge.

Dated: February 26, 2026

/s/ Neal Richardson Datta